

## Exhibit A



## **FAX COVER SHEET**

DATE: NOVEMBER 29, 2005 17:09 PM

PAGES (INCLUDING COVER) 2

To: IRENE S. FIORENTINOS, ESQ.

**JONES DAY** 

FAX: (312) 782-8585

FROM: MATT HERNDON

HARVARD PILGRIM HEALTH CARE

LEGAL DEPARTMENT

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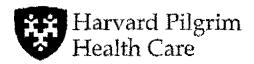
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## **COMMENTS:**



November 29, 2005

<u>Via Facsimile & U.S. Mail</u> (312) 782-8585

Irene S. Fiorentines, Esq. Jones Day 77 West Wacker Chicago, Illinois 60601-1692

Re: <u>In re Pharmaceutical Industry Average Wholesale Price Litigati on and Harvard Pilgrim Health</u>

Care Subpoena

Dear Ms. Fiorentinos:

This will confirm our conversation yesterday concerning the subpoenal erved electronically upon Harvard Pilgrim Health Care on Wednesday, November 23, 2004 in connection with the above referenced litigation. While Harvard Pilgrim expressly reserves the right to object to the subpoena for documents and testimony on all grounds available to us, Harvard Pilgrim and Jone. Day on behalf of all defendants have agreed to postpone both the production of documents scheduled fir November 30, 2005 and testimony scheduled for December 2, 2005 while we further review your request.

As we discussed, Harvard Pilgrim responded to an earlier subpoena in 1.004 served by another defendant in this matter by providing numerous documents and testimony by Har and Pilgrim employees. We understand that your recent subpoena for documents and additional testimony is meant to "complete discovery previously served on Harvard Pilgrim." Harvard Pilgrim con tends that we have complied with all outstanding discovery requests as a third-party witness pursuant to cur agreement with defendants' counsel at the firm of Patterson, Belknap, Webb & Tyler, LLP with respect to the initial subpoena.

Based on our discussion, we also understand that the plaintiffs in this I tigation have filed a motion for a protective order in connection with your recent subpoens on Harvard I ilgrim. If this motion is granted, we understand that no further action will be required by Harvard Pilgr m.

Notwithstanding our significant concerns about responding to another subpoena for documents and testimony over a year later, we have agreed to review your additional equest for information consistent with our past approach of cooperation where reasonable and not unduly burdensome. Again, Flarvard Pilgrim reserves the right to object to the subpoena after we conduct this review.

We will plan to speak with you later in the week concerning this math r.

Sincerely,

Matthew H. Herndon

cc: Lori Jackson

Harvard Pilgrim Health Care, Inc.